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SUBJECT: WHILE THAILAND BEGS FOR FDI, NORTHERN INVESTORS VOICE
COMPLAINTS

REF: A. 08 CHIANG MAI 160 (LAMPHUN INDUSTRIAL ESTATE)
[1](#)B. 08 CHIANG MAI 128 (SPACE FOR INVESTMENT)

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Summary and Comment

[1](#)1. Amid a downward trend of foreign direct investment (FDI) in Thailand and the northern region in particular, the Board of Investment (BOI) expressed Thailand's thirst for a new wave of foreign capital by highlighting a range of incentives for new investment to an audience of foreign business owners in Chiang Mai on May 27. These foreign investors, who already operate in the northern region, reacted assertively to the BOI's presentation, calling for Thailand to relax labor laws and improve BOI services for current foreign investors before putting its effort on attracting new ones.

[1](#)2. Comment: A revision of BOI policy -- from encouraging investment in certain lesser developed regions of Thailand to encouraging any investment anywhere in the country -- highlights Thailand's desire for more FDI as a possible aid to economic recovery. With current investors being so unhappy with the legal and cultural barriers of operating here, the RTG will have to do much more than provide tax breaks to attract new foreign capital. After all, Thailand's current investors may be its best bet for new foreign capital. End Summary and Comment.

Amid Falling FDI, BOI Expands Incentives

[1](#)3. The disappointing downward trend of foreign investment in Thailand and in the northern region in particular were the opening comments of Board of Investment (BOI) Secretary General Atchaka Brimble during a May 27 open forum she hosted with foreign investors in northern Thailand. The SecGen reported that in the first quarter of 2009, the number of new foreign investment projects country-wide dropped 29% from the same quarter last year, and the value of new investments dropped 10%. In the north, the news was gloomier with the number of projects dropping 42% and the value of FDI dropping 50% in the first quarter.

¶4. The SecGen tried to balance the bad news with the good. She reminded foreign investors about generous BOI incentives for certain types of new investment (for which the BOI certification application is due before the end of this year). Benefits from new investments filed by the end of 2009 include eight years of corporate tax exemption, and exemption of import duties for machinery. The SecGen also highlighted that these incentives, which have historically been reserved for new foreign investment in lesser developed regions of the country, now apply to investment anywhere outside of Bangkok, a policy the BOI calls "one country, one zone." (Comment: The BOI's shift away from trying to manipulate where investors choose to operate highlights the RTG's desire for more FDI country-wide as an aid to economic recovery.) The BOI is also targeting investment in certain sectors that it would like to see Thailand develop as competitive advantages, including energy-saving technologies, eco-friendly products, high-tech agricultural business, logistics, and tourism.

Investors Complain of "Crippling" Labor Laws

¶5. After a generally cheery presentation by the SecGen, the dialogue turned sour as investors bombarded her with complaints. A U.S. firm and a Singaporean firm told her that strict Thai labor laws were "crippling" their firms' ability to pull themselves out of the current economic crisis. A representative

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of the U.S. firm Innovex, which produces small electronics parts at the Lamphun Northern Regional Industrial Estate (ref A), recounted that incentives for Thai laborers to work harder over years of employment decreases because of the nature of Thai labor laws, which require that severance pay for laid off workers be proportional to the length of time employed by the firm. Thus, according to Innovex, higher-ranking Thai staff become non-performing employees who are extremely costly to dismiss. The Innovex representative pleaded with the SecGen to address this issue with the RTG and said that "the costs of these strict labor laws are so high that they are offsetting the benefits of operating in northern Thailand." The Singaporean firm echoed Innovex's comments, and the SecGen responded that she would be meeting with the Labor Minister on June 16 and plans to raise the issue at that time.

A Welcoming Invitation, but A Lousy Host?

¶6. Aside from costly labor laws, which the SecGen agreed are among the most costly obstacles that foreign firms face in Thailand, foreign investors raised a range of other complaints that they say make operating in Thailand challenging or costly. Most of the complaints were problems caused by poor BOI services, particularly in the north. A Pepsi-FritoLay representative complained that BOI staff would not approve the duty-free importation of certain used machinery because the machines were available on the Thai market, a BOI regulation. His argument was that the machines should be duty-free since they are not produced here and Thai sellers import the machines

used from Japan. The SecGen agreed and invited the company to contact the local BOI office.

¶7. A European firm complained about a lack of understanding among the Thai courts, lawyers, and the BOI about Thailand's regulations on majority Thai ownership of shares. Thai regulations allow for foreigners to own majority shares in several industries; however, firms complained that lawyers and judges generally believe that any firm operating in Thailand must be owned (with a majority of shares) by a Thai citizen. The BOI SecGen admitted that this was a misunderstanding.

¶8. Several U.S. and European firms raised complaints about poor communication between the BOI and registered foreign investors. One firm representative complained that the forum was the first time he had heard of many of the BOI's new incentive programs; and, with only half of the year remaining, the firm has very little time to apply to take advantage of them. Others complained of poor English skills among BOI staff and the lack of English-language BOI resources and correspondence. A Singaporean firm called for the RTG to do more to develop technical skills in the northern region, a complaint U.S. firms have raised previously with us (ref B). Several expatriate investors complained of excessively strict Thai visa policies, particularly for investors' family members. One investor commented broadly to the BOI SecGen, "We want to invest in Thailand, but you are making it difficult for us. Help us to invest here; make it easy for us to invest here."

¶9. This cable was coordinated with Embassy Bangkok.
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